



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 500  
DENVER, COLORADO 80202-2466

MAY 4 2006

Ref: 8ENF-W

CERTIFIED MAIL LETTER  
RETURN RECEIPT REQUESTED

La Plata County Commissioners  
c/o Wallace White, Chair  
La Plata County Courthouse  
1060 E. 2<sup>nd</sup> Ave.  
Durango, CO 81301

Re: Notice of Safe Drinking Water Act  
Enforcement Action against  
City of Durango  
PWS ID# CO0134150

Dear County Commissioners:

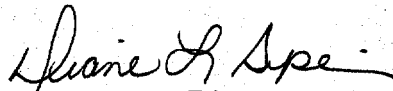
Under the Safe Drinking Water Act ("SDWA"), the Environmental Protection Agency (EPA) administers a program for promoting the safety of public water supplies. On June 12, 2002, the SDWA was amended by inserting Section 1433, 42 U.S.C. § 300i-2, Terrorist and Other Intentional Acts, in accordance with the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107-188). Section 1433 of the SDWA, 42 U.S.C. § 300i-2, is an "applicable requirement" as defined in Section 1414(i) of the SDWA, 42 U.S.C. § 300g-3(i). The Colorado Department of Public Health and Environment ("CDPHE") administers the Public Water Supply Supervision Program in Colorado pursuant to Section 1413 of the SDWA, 42 U.S.C. § 300g-2. However, EPA has and will retain primary enforcement responsibility for Section 1433 of the SDWA, 42 U.S.C. § 300i-2.

When EPA issues an administrative compliance order to a public water supply system in a state that does not have primary enforcement authority for any requirement under the SDWA, EPA is required to notify an appropriate locally elected official. Accordingly, the purpose of this letter is to notify you that EPA is issuing an administrative compliance order to a public water supply system in your county.

An Administrative Order ("Order") is being issued under Section 1433 of the SDWA to the City of Durango Public Water System. This Order requires that the public water system take measures to return to compliance with the SDWA. The system is in violation of Title IV of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 and the requirements of Section 1433 of the SDWA, 42 U.S.C. § 300i-2, by not conducting required reviews and reports.

A copy of the Order is enclosed for your information. The Order does not require any response or action by the County Commission. If you have any questions regarding this Order, please contact Melanie Wasco at (303) 312-6540.

Sincerely,

A handwritten signature in black ink, appearing to read "Diane L. Sipe".

Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosure



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION 8**

**999 18<sup>TH</sup> STREET- SUITE 300**

**DENVER, CO 80202-2466**

**Phone 800-227-8917**

**<http://www.epa.gov/region08>**

Ref: 8ENF-W

MAY 4 2006

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

City of Durango Public Water System  
Attn: Dale Garland, Mayor  
City Hall  
949 E. 2nd Avenue  
Durango, CO 81301

Re: Administrative Order  
Docket No. SDWA-08-2006-0032  
PWS ID# CO0134150

Dear Mayor Garland:

Enclosed you will find an Administrative Order ("Order"), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f *et seq.*, and its implementing regulations. The Order concerns requirements of the SDWA Section 1433, 42 U.S.C. § 300i-2, Terrorist and Other Intentional Acts, in accordance with the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107-188). The Colorado Department of Public Health and Environment (CDPHE) administers the Public Water Supply Supervision Program in Colorado pursuant to Section 1413 of the SDWA, 42 U.S.C. § 300g-2. However, EPA has and will retain primary enforcement responsibility for Section 1433 of the SDWA, 42 U.S.C. § 300i-2.

Section 1433(a) of the SDWA, 42 U.S.C. § 300i-2(a), requires community water systems serving more than 3,300 persons to conduct a Vulnerability Assessment (VA) of their system's vulnerabilities to terrorist attack or other disrupting acts; certify and submit a copy of the assessment to the EPA Administrator; prepare and/or revise an emergency response plan (ERP) that incorporates the results of the VA; and certify to the EPA Administrator, within 6 months of completing the VA, that the system has completed or updated its ERP.

The Environmental Protection Agency (EPA) is aware that the City of Durango Public Water System ("PWS") failed to:

- Prepare and/or revise an emergency response plan that incorporates the results of the Vulnerability Assessment;
- Certify to the EPA Administrator that the system has completed or updated its emergency response plan.

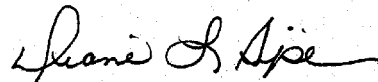
The Order will become effective immediately upon receipt and will remain in effect until you are notified in writing by EPA. The Order is divided into three major sections:

1. The FINDINGS section lists violations;
2. The ORDER section describes what the system must do to return to compliance. Time limitations accompany each requirement;
3. The GENERAL PROVISIONS section contains the legal parameters of the Order and the penalties which could be assessed if you do not comply with the Order. Violations of this Order may subject you to an administrative civil penalty of up to \$27,500, or a court imposed penalty of up to \$32,500 per day of violation.

EPA's goal is to bring the City of Durango PWS into compliance with § 1433 of the SDWA and ensure the security and safety of the water supply. Your cooperation in working with EPA in achieving this goal is very important. If you have questions regarding the requirements of the Order or if you feel that EPA can be of assistance in complying with the Order, please contact Melanie Wasco at (800) 227-8917, extension 6540, or (303) 312-6540. If you wish to have an informal conference with EPA, you may also call or write Ms. Wasco. If you are represented by an attorney, please feel free to ask your attorney to call Michelle Marcu at the above 800 number, extension 6921, or at (303) 312-6921.

We urge your prompt attention to this matter.

Sincerely,



Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosure

cc: Steve Gunderson, CDPHE  
David Akers, CDPHE  
Lori Gerzina, CDPHE

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2006 MAY -4 PM 1:09

IN THE MATTER OF )

City of Durango )

Durango, Colorado )

PWS ID# CO0134150 )

Respondent )

Proceedings under Section 1414(g) )  
of the Safe Drinking Water Act, )  
42 U.S.C. § 300g-3(g) )

FILED  
EPA REGION VIII  
HEARING CLERK

ADMINISTRATIVE ORDER

Docket No. SDWA-08-2006-0032

STATUTORY AUTHORITY

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 1414(g) of the Safe Drinking Water Act ("the Act"), 42 U.S.C. § 300g-3(g), and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. The City of Durango (hereinafter "Respondent") is a municipality and is therefore a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates the "public water system," as defined by Section 1401(4) of the SDWA, 42 U.S.C. § 300f(4), and 40 C.F.R. § 141.2, located in Durango, Colorado.
3. Respondent is a "supplier of water" as that term is defined in Section 1401(5) of the SDWA, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2.

4. Respondent's public water system provides piped water for human consumption and regularly serves at least 15 service connections and/or a population of 25 or more individuals, and is therefore a "community water system" as defined by 40 C.F.R. § 141.2.
5. According to Federal records, the Respondent's public water system serves a population of 22,000.
6. On June 12, 2002, the SDWA was amended by inserting Section 1433, 42 U.S.C. § 300i-2, Terrorist and Other Intentional Acts, in accordance with the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107-188).
7. Section 1433 of the SDWA, 42 U.S.C. § 300i-2, is an "applicable requirement" as defined in Section 1414(i) of the SDWA, 42 U.S.C. § 300g-3(i).
8. The Colorado Department of Public Health and Environment (CDPHE) administers the Public Water Supply Supervision Program in Colorado pursuant to Section 1413 of the SDWA, 42 U.S.C. § 300g-2. However, EPA has and will retain primary enforcement responsibility for Section 1433 of the SDWA, 42 U.S.C. § 300i-2.
9. Section 1433(a) of the SDWA, 42 U.S.C. § 300i-2(a), requires community water systems serving more than 3,300 persons to:
  1. Conduct a Vulnerability Assessment (VA) of their system's vulnerabilities to terrorist attack or other intentional acts intended to substantially disrupt the ability of the system to provide a safe and reliable supply of drinking water.

2. Certify and submit a copy of the assessment to the EPA Administrator,
  3. Prepare and/or revise an emergency response plan (ERP) that incorporates the results of the VA.
  4. Certify to the EPA Administrator, within 6 months of completing the VA, that the system has completed or updated its ERP.
10. The purpose of the VA is to help water systems evaluate susceptibility to potential threats and identify corrective actions that can reduce or mitigate the risk of serious consequences from adversarial actions (e.g., vandalism, insider sabotage, and terrorist attack). The VA provides a framework for developing risk reduction options and associated costs.
11. Section 1433(a)(2)(A) of the SDWA, 42 U.S.C. § 300i-2(a)(2)(A), requires community water systems serving between 3,300 and 50,000 persons to submit and certify their VA(s) to the EPA Administrator by June 30, 2004, and within 6 months of completing the VA, to provide certification to the EPA Administrator that the system has completed or updated its ERP.
12. Respondent's public water system serves a population between 3,300 and 50,000 persons.
13. Based on the information available to EPA, although Respondent has submitted and certified a copy of the VA to the EPA Administrator, Respondent has failed to certify to the EPA Administrator that the system has completed or updated its ERP, as specified in Section 1433(a) of the SDWA, 42 U.S.C. § 300i-2(a), Title IV, for the City of Durango Water System, in violation of Section 1433(a) of the SDWA, 42 U.S.C. § 300i-2(a), an "applicable requirement" of the SDWA.

14. EPA is issuing this Administrative Order to address the violations enumerated above and to place Respondent on an enforceable schedule to comply with Title IV of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 and the requirements of Section 1433 of the SDWA, 42 U.S.C. § 300i-2.

ORDER

Based on the foregoing FINDINGS, and pursuant to the authority of Section 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g), EPA hereby ORDERS Respondent as follows:

15. Within sixty (60) days of the effective date of this Administrative Order, Respondent shall comply with paragraphs a. and b. below:
  - a. Provide certification that the system has completed or updated its ERP, as required by Section 1433(a) of the SDWA, 42 U.S.C. § 300i-2, to the EPA Administrator. **The submission of this information shall be accomplished in strict accordance with the established protocol that can be found in section 6.3 of the enclosed document entitled "Instructions to Assist Community Water Systems in Complying with the Public Health Security and Bioterrorism Preparedness Act of 2002"; and**
  - b. In addition, provide written confirmation to EPA Region 8 that the Requirements of the above paragraph a. have been met and that Respondent is in compliance with Section 1433(a) of the SDWA, 42 U.S.C. § 300i-2, and this Administrative Order. **Do not submit the ERP certification to the below address, only the above referenced confirmation shall be mailed to:**



U.S. EPA Region 8 (P-W-MS)  
Marty Swickard, Regional Water Security Coordinator  
999 18<sup>th</sup> Street – Suite 300  
Denver, CO 80202-2466  
Phone: (303)312-7021  
Fax: (303)312-6131  
Email: Swickard.Marty@epa.gov

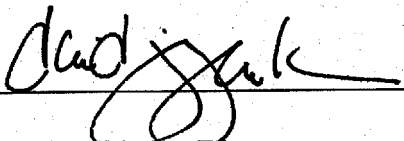
16. Respondent shall comply with all other requirements of Section 1433 of the SDWA, 42 U.S.C. § 300i-2, based on the schedules provided therein.

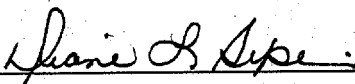
#### GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order may subject the Respondent to an administrative civil penalty of up to \$27,500 under Section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B), or a civil penalty of not more than \$32,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(g)(3)(C) of the Act, 42 U.S.C. § 300g-3(g)(3)(C).
3. Violation of any requirement of the SDWA or its implementing regulations instituted under Section 1414(b), 42 U.S.C. § 300g-3(b), may subject the Respondent to a civil penalty of not more than \$32,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).

4. The effective date of this Order shall be the date of issuance of this Order.

Issued this 4<sup>th</sup> day of May, 2006.

  
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Michael T. Risner, Director  
David J. Janik, Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

  
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Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice